

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.9163 OF 1997

DINESHBHAI AMBALAL SHAH

VERSUS

DAKSHIN GUJARAT KAMDAR ASSOCIATION

Appearance:

MR AK CLERK for the Petitioner

CORAM: MR.JUSTICE S.K.KESHOTE

Date of Order: 26/12/1997

C.A.V. ORDER

Heard learned counsel for the petitioner.

2. By this Special Civil Application, the petitioner challenges the order dated 4.12.97 passed by the Authority of Payment of Wages, Surat, passed under Ex.89 in the Application No.188 of 1995.

3. The petitioner filed the aforesaid application on 4.12.97 and prayed for examination of persons named therein as witnesses in the matter on his behalf. The learned counsel for the petitioner contended that the petitioner wanted to examine material witnesses and under the impugned order, that right has been denied to him which will ultimately affect the decision in the matter. The learned counsel for the petitioner has placed reliance on two decisions, namely, in the case of Payment of Wages Inspector, Ujjain v. Surajmal Mehta, Director, Barnanagar Electric Supply and Industrial Company Ltd., reported in AIR 1969 SC 590, and in the case of Mohammad Ayub v. M/s. Mohd. & Sons & Ors., reported in 1995(1) LLJ 978 of, the Rajasthan High Court.

4. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

5. The authority below has rejected the application of the petitioner on the ground that it is only an attempt on the part of the petitioner to prolong the case. It has further been decided by the authority that

witnesses to whom the petitioner desires to examine have no relevance in the case and so this application has been filed with an intention to delay the disposal of the main matter. I do not consider to be appropriate to give any verdict on the merits of the order impugned in this Special Civil Application as what I feel is that this petition at this stage when the application of the petitioner for examining the witnesses has been rejected, deserves no entertainment by this Court. It is only an interlocutory order passed by the authority below and the matter has not been finally decided. In the matter of proceedings initiated by workman under the Payment of Wages Act, this Court should not permit either of the parties to stall the proceedings by challenging the interlocutory orders and the reason is very obvious. If ultimately the matter is decided against a party concerned, then while challenging the final order, the party has all the right to challenge those interlocutory orders also passed in the proceedings. The application of the respondent is pending since 1995 and it has not been so far decided. The petitioner, instead of challenging this order, should have made all endeavour to see that the matter is finally decided by the said authority. The order impugned in this Special Civil Application may otherwise not cause any prejudice to the petitioner at this stage. If ultimately the proceedings are finally decided against him, then he has all the right to challenge that order while challenging the final order. So far as the decisions on which reliance has been placed by learned counsel for petitioner is concerned, it is suffice to say that I am not deciding the matter on merits and as such I do not consider it to be necessary to refer to those decisions on which reliance has been placed by the learned counsel for the petitioner.

In the result, this Special Civil Application fails and the same is dismissed.

(S.K.Keshote, J)

(sunil)